Supreme Court, U.S.
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No. 02-1753

In The Supreme Court of the United States

CALIFORNIA DEMOCRATIC PARTY, et al.,

Appellants,

v.

FEDERAL ELECTION COMMISSION, et al.,

Appellees.

On Appeal From The United States District Court For The District Of Columbia

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QUESTION PRESENTED

Do the restrictions imposed upon state and local political parties and party officers by Title I of the Bipartisan Campaign Reform Act of 2002 ("BCRA") violate Article I, section 4 of the U.S. Constitution, the First, Fifth, and Tenth Amendments, and principles of federalism?

PARTIES TO THE PROCEEDING

The following state and local political party committees, and officers of those committees, were plaintiffs in the District Court and are appellants in this Court: California Democratic Party; California Republican Party; Yolo County Democratic Central Committee; Santa Cruz County Republican Central Committee; Art Torres; Shawn Steel; Timothy J. Morgan; Barbara Alby; Douglas R. Boyd, Sr.

The following were defendants or defendant-intervenors in the District Court and are appellees in this Court: Federal Election Commission; United States Department of Justice; Federal Communications Commission; Senator John McCain; Senator Russell Feingold; Representative Christopher Shays; Representative Marty Meehan; Senator Olympia Snowe; Senator James Jeffords.

STATEMENT PURSUANT TO RULE 29.6

None of the appellants has a parent corporation, and no publicly held company owns 10% or more of the stock of any of the appellants.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
STATEMENT PURSUANT TO RULE 29.6	ii
OPINIONS BELOW	1
JURISDICTION	1
RELEVANT STATUTES AND CONSTITUTIONAL PROVISIONS	1
STATEMENT OF THE CASE	2
SUBSTANTIAL QUESTIONS ARE PRESENTED	9
CONCLUSION	18

TABLE OF AUTHORITIES

Page

CASES

Buckley v. Valeo, 424 U.S. 1 (1976) 10, 12, 16

California Democratic Party v. Jones, 530 U.S. 567 (2000) 11, 13

Citizens Against Rent Control/Coalition For Fair Housing v. Berkeley, 454 U.S. 290 (1981) 14

Eu v. San Francisco County Democratic Cent. Comm., 489 U.S. 214 (1989) 15

First Nat'l Bank v. Bellotti, 435 U.S. 765 (1978) 14

NAACP v. Alabama, 357 U.S. 449 (1958) 15

Nixon v. Shrink Missouri Gov't PAC, 528 U.S. 377 (2000) 12

Oregon v. Mitchell, 400 U.S. 112 (1970) 11

Police Dep't of Chicago v. Mosely, 408 U.S. 92 (1972) 17

Tashjian v. Republican Party of Conn., 479 U.S. 208 (1986) 11

STATUTES

28 U.S.C. § 2284 1

29 U.S.C. § 1253 1

Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 ..... *passim*

OPINIONS BELOW

The opinions of the District Court are reported at 2003 WL 2010983, 21003118, 21003103, and 21003124 (D.D.C. May 1, 2003). Pursuant to this Court's May 15, 2003 Order, the California Appellants anticipate filing a jointly prepared appendix with other Appellants containing the opinions of the District Court.

JURISDICTION

The decision of the District Court was entered on May 2, 2003, by a three-judge court convened pursuant to 28 U.S.C. § 2284 and BCRA Section 403(a)(1). California Appellants timely filed their Notice of Appeal on May 12, 2003. App. 1a. This Court has jurisdiction under 29 U.S.C. § 1253 and BCRA § 403(a)(3).

RELEVANT STATUTES AND CONSTITUTIONAL PROVISIONS

The Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. No. 107-155, 116 Stat. 81 is reproduced at App. 8a. Also reproduced in the Appendix are the following provisions from the U.S. Constitution: Article I, section 4 (App. 4a), the First Amendment (App. 5a), the Fifth Amendment (App. 6a), and the Tenth Amendment (App. 7a).

STATEMENT OF THE CASE

Appellants in *California Democratic Party, et al. v. Federal Election Commission, et al.* (No. 02-875) are state and local party committees, and officers of those committees, who have challenged the Bipartisan Campaign Reform Act of 2002 ("BCRA") on the grounds that BCRA violates the constitutional rights of the state and local parties under the First, Fifth and Tenth Amendments, and that it exceeds Congress' authority under the Elections Clause (Article I, Section 4) and violates principles of federalism.

According to its sponsors, BCRA is designed to close "loopholes" that have allowed non-federal (or "soft" money) to intrude into federal elections and permitted political parties and organizations to disseminate "sham" issue ads. In the name of closing these "loopholes," and in order to prevent the possibility of future harms (many of which are simply conjectural), BCRA prohibits a broad range of speech, conduct and associational activity. With respect to the political parties, it is designed to isolate the various units of the parties and ensure that their collective activities are limited. In fact, many of these "loopholes" exist precisely because certain speech and association activities are entitled to constitutional protection. *See, e.g.*, Op. Henderson, J. at 429sa: "[D]efendants' assertions and BCRA's restrictions reflect little more than the frustration with First Amendment principles firmly rooted in *Buckley, Citizens Against Rent Control, and Colorado Republican I.*"

The key provisions of BCRA are contained in Titles I and II. Title I, which is the focus of the California Appellants, contains a host of new restrictions on the political

parties at the national, and state and local level.[1] The heart of Title I is Section 101, which creates new sections 323(a)-(f) and the definition of "federal election activity" at FECA § 301(20).

New FECA § 323(a) prohibits the national political parties from soliciting, directing or spending non-federal money for either federal elections or for state or local elections. New FECA § 323(b) similarly prohibits state and local political parties from soliciting, directing or spending non-federal money on any "federal election activity." New FECA §§ 323(c)-(f) contain related restrictions on fundraising for "federal election activities;" restrictions on donations to tax exempt organizations that engage in "federal election activities;" restrictions on federal candidates and officeholders raising, spending or directing money for "federal election activities;" and restrictions on state candidates engaging in certain "public communications" that refer to federal candidates.

Despite the name, the only connection between many of the activities that are included in the statutory definition of "federal election activity" and a federal candidate is the actual date of the election. "Federal election activity" includes any voter registration activity within 120 days of an election that includes a federal candidate; any voter

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[1] Appellants also challenged BCRA section 213, which prohibits any political party committee from making independent expenditures on behalf of a candidate if any unit of the party has made a coordinated expenditure and, conversely, prohibits a party committee from making a coordinated expenditure if any unit of the party has made an independent expenditure. The court below unanimously found this provision unconstitutional and enjoined its enforcement. Appellants do not seek review of this finding.

identification, get-out-the-vote or generic party promotional activity conducted "in connection with" such election (regardless of whether it is actually directed at a state or local candidate); the services of any employee who spends more than 25% "in connection with" such election; and any public communication that refers to a federal candidate, and that "promotes," "supports," "attacks" or "opposes" that candidate "regardless of whether the communication expressly advocates a vote for or against a candidate." New FECA § 301(20)(A).

BCRA requires that all "federal election activity" be funded with federal money, even if that activity is, in fact, directed at state or local candidates. This means that money lawfully raised under state law (i.e., non-federal money) cannot be used for most state and local election activity. As a practical matter, FECA § 323(b) results in the vast majority of state and local election activity being subjected to federal regulation and federal financial restrictions. Some activities may be funded, in part, with "Levin funds," a new category of federally regulated money. Contributions of Levin funds may be made from sources prohibited by federal law (e.g., unions or corporations), but the limit on the amount that may be contributed is exactly the same as the limit on federal contributions.

Both the legislative history and the actual language used demonstrate clearly that Congress intended the definition of "federal election activity" to encompass most of the campaign activities traditionally performed by the state and local political parties – activities such as voter registration, walking precincts, and calling prospective voters to remind them to turn out on election day – even

when a federal candidate is not promoted, or even mentioned. In fact, even activities expressly advocating the support or defeat of state or local candidates are transformed by the BCRA into "federal election activity" on the theory that encouraging voters to vote for a state or local candidate may "affect" a federal race on the same ballot.

The price that state and local parties have to pay under BCRA in order to use their own state-regulated funds to engage in ordinary campaign activities such as voter registration or get-out-the-vote activity in their own elections is substantial. First, they must raise all the funds themselves; they cannot make or receive transfers of federal or non-federal money – even between state or local party committees within the same state – for these activities. FECA § 323(b)(2)(B)(iv). Second, the cost of fundraising to raise money for these activities may be paid only with federally regulated money. FECA § 323(c). Third, they may not engage in joint fundraising activities with other state or local parties. FECA § 323(b)(2)(B)(ii). Fourth, they may not spend any non-federal money that has been "solicited" or "directed" to them by any federal candidate or officeholder, or any national party committee officer or agent. FECA §§ 323(b)(2)(C)(i); 323(a); 323(e).

Even if a state or local party does not choose to engage in any "federal election activity," BCRA imposes additional restrictions on that party. A state or local political party may not donate to, or solicit money for, any 501(c) organization that engages in "federal election activity," including nonpartisan voter registration, get-out-the-vote activity, or ballot measure activity, or any "527" committee, including "political committees" under state law. FECA § 323(d).

The Proceedings Below

The California Appellants challenged the provisions of FECA §§ 323(b)-(f), and the new definition of "federal election activity" at FECA § 301(20). It is their position that these provisions impermissibly subject an enormous amount of state and local election activity – indeed, the lion's share – to federal regulation and federal financial restrictions despite the fact that these activities are neither directed at federal candidates nor have any significant effect on federal races. The effect of subjecting these activities to federal regulation and at the same time limiting the amount of *state-regulated* money that can be used for those activities is to dramatically reduce the amount of money available and the ability of the state and local parties to participate meaningfully in their own state and local elections. This substantial interference with the rights of the state and local parties is not narrowly tailored to reach only activities that have the purpose of influencing federal elections and is not justified by any other important governmental interest.

In addition, the California Appellants submit that the various limitations on the parties' speech and activities interfere with their ability to act collectively in support of candidates or an ideological message. Specifically, the restrictions on joint fundraising and transfers unconstitutionally limit their ability to set organizational priorities. The prohibitions on the national parties and federal candidates being able to "spend" or "direct" non-federal money mean that those persons cannot join with the state parties in planning a unified campaign. Since many state party officers also hold offices in their national parties, these restrictions essentially remove key members of the party from direct decision-making within their party. The

restrictions on contributions to tax exempt 501(c) and 527 organizations, particularly in California, mean that the parties cannot become involved in ballot measure campaigns, and cannot provide financial support to the local Democratic and Republican clubs that do much of the grass-roots campaign work. None of these provisions are narrowly tailored to meet the asserted goals of preventing corruption of federal officeholders or circumvention of existing federal contribution limits. Moreover, they place the parties at a distinct disadvantage relative to other non-party participants in the political process who are not subject to the same associational and financial constraints.

The District Court issued its decision May 2, 2003. Each member of the Court issued his or her own opinion and separate findings of fact. Judges Kollar-Kotelly and Leon also joined a *per curiam* opinion (which focused largely on disclosure provisions not challenged by the California Appellants). Because Judge Henderson would have stricken most of BCRA's provisions as unconstitutional, and Judge Kollar-Kotelly would have upheld most of the provisions, the opinion of Judge Leon determines, in most instances, whether a particular provision was upheld or invalidated.

Judges Henderson and Leon both concluded that the most significant sections of Title I were unconstitutional. Judge Leon analyzed FECA §§ 323(a) and (b) under intermediate scrutiny. Although he erred in failing to apply strict scrutiny, he nonetheless found that these provisions were not "closely drawn" to meet an important federal objective. Op. Leon, J. at 1101-1111sa, 1118-1124sa. He also concluded that the definition of "federal election activity" at FECA § 301(20) was unconstitutionally overbroad, with the exception of the portion of that definition

pertaining to a "public communication" that "promoted," "supported," "opposed" or "attacked" a federal candidate. Op. Leon, J. at 1118-1119sa. Judge Leon concluded that the "public communication" portion of the provision is constitutional because it "directly affects federal elections and gives rise to the appearance of corruption." Op. Leon, J. at 1119sa. He also concluded that the evidence failed to demonstrate the effect of activities such as voter registration and get-out-the-vote efforts on federal elections, or created any sense of indebtedness on the part of federal officeholders that would create an appearance of corruption. Op. Leon, J. at 1122sa. He joined with Judge Henderson in striking down the restrictions on contributions to tax exempt organizations, but voted with Judge Kollar-Kotelly to uphold the restrictions on state candidates in 323(f). Judge Leon would have stricken 323(e), the restriction on non-federal fundraising by federal candidates or officeholders, a provision upheld by Judges Henderson and Kollar-Kotelly.

Judge Henderson would have stricken most of BCRA, finding it "unconstitutional in virtually all of its particulars" and describing it as "break[ing] faith" with fundamental First Amendment principles. Op. Henderson, J. at 160sa. Because Judge Henderson concluded that the restrictions on speech and association could not properly be characterized as "contribution limits," she applied strict scrutiny. Finding that the provisions of FECA §§ 323(a) and (b) were not narrowly tailored to serve a compelling government interest, she would have invalidated both. Op. Henderson, J. at 421-450sa. In so doing, Judge Henderson specifically rejected as insufficient the government's argument that state activities could be regulated because they might have some effect on a federal race taking place at the same time. She also found unconstitutional FECA

§ 323(c), the restrictions on fundraising, FECA § 323(d), the restrictions on contributions to tax exempt organizations, and FECA § 323(f), the restrictions on state candidates' use of non-federal funds for "public communications" that mentioned federal candidates.

Judge Kollar-Kotelly would have upheld Title I in its entirety. Reasoning that all of Title I was a "contribution limit," she applied intermediate scrutiny. She then concluded that the provisions were "closely drawn" to achieve the governmental interests in preventing the corruption of federal officeholders or circumventing the federal contribution limits. As Judge Leon correctly observed, Judge Kollar-Kotelly's interpretation and application of this Court's circumvention cases "dictates a novel application of that precedent."

SUBSTANTIAL QUESTIONS ARE PRESENTED

As acknowledged by the majority of the court below, BCRA significantly limits the fundamental ability of the state and political parties to participate in the political process, including their own state and local elections. Section 101 defines "federal election activity" as virtually any activity that takes place in proximity to an election which includes a federal office, without regard to the purpose of the expenditure. In doing so, it brings within its regulatory sphere the vast majority of state and local election activity, including activities that are intended to influence only state and local elections. In the name of "regulating" the parties' "federal" election activity, BCRA imposes significant and constitutionally unprecedented

barriers to normal communication and traditional associational activities. In imposing such restrictions, it also impermissibly singles out the political parties while allowing and even encouraging similar conduct by other groups in the political arena.

Although the court below invalidated FECA §§ 323(a), (b), (c) and (d), it upheld 323(e) and (f). In addition, while the court found that the definition of "federal election activity" at FECA § 301(20) was unconstitutional, it severed out and saved the "public communication" portion of that definition which is itself unconstitutionally overbroad. Because of the constitutional questions raised by virtually every provision in new FECA §§ 323(a)-(f), and the related definition of "federal election activity" at FECA § 301(20), this Court should note probable jurisdiction to review those provisions and the District Court's failure to declare them unconstitutional in their entirety.

I. The Extensive Regulation of State and Local Election Activity Exceeds Congress' Authority to Regulate Federal Elections

Although Congress did not expressly identify the authority under which it enacted BCRA, it has been assumed that authority is asserted under the Elections Clause of the Constitution (Article I, § 4). *See, e.g.*, *Buckley v. Valeo*, 424 U.S. 1, 13 & n.16 (1976) (noting that Congress' authority to regulate federal elections is well established). The Elections Clause on its face gives Congress authority to regulate the "time, places and manner" of federal elections.

BCRA, however, goes well beyond the regulation of federal elections and comprehensively regulates election

activity at the state and local level if those elections are held at the same time as any federal election. The Federal Elections Clause has never been construed to provide such authority to Congress, and principles of federalism preclude any such construction. In striking down a Congressional enactment lowering the voting age for state elections, but upholding it with respect to federal elections, Justice Black cautioned that although Congress had broad supervisory authority over federal elections, the Constitution made clear that equivalent power to regulate state elections was left to the states as sovereign entities. *Oregon v. Mitchell*, 400 U.S. 112, 124-25 (1970) (opinion of Black, J.); *see also Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 217 (1986) (power given to Congress by Article I, § 4 over federal elections matched by state control over election process for state offices); and *California Democratic Party v. Jones*, 530 U.S. 567, 590 (2000) (Stevens, J., dissenting) ("[a] State's power to determine how its officials are to be elected is a quintessential attribute of sovereignty").

The states, in exercising this sovereignty, have come up with a range of campaign finance regimes – some less restrictive than the federal system, some more restrictive. California, for example, allows unrestricted contributions for non-candidate expenditures and allows contributions of up to $25,000 for candidate-related expenditures because the voters believed that the parties "play an important role . . . and help insulate candidates from the potential corrupting influence of large contributions." Op. Henderson, J. at 310-311sa, Finding ¶ 72. BCRA defines typical state and local party activities such as voter registration, get-out-the-vote communications (even for state or local candidates), and generic party promotion as "federal election

activity" and then subjects these activities to federal regulation, including spending limits. Such action on the part of Congress effectively (and impermissibly) nullifies the considered decisions of the states on these matters, and it does so without requiring any nexus between the activity or communication regulated and a federal candidate other than proximity to a particular election.

Because Judges Henderson and Leon invalidated most of the restrictions of FECA § 323(b) on First Amendment grounds, they did not reach the question of whether Article I, § 4 confers authority on Congress to regulate state and local elections, although Leon termed the issue "considerable." Op. Leon, J. at 1119sa. Judge Kollar-Kotelly concluded that none of the plaintiffs below had standing to raise the issue. Op. Kollar-Kotelly, J. at 1000-1007sa.

II. BCRA Violates The Political Parties' First Amendment Rights of Speech and Association

This Court has held that the government may lawfully impose limitations on political contributions without violating the First Amendment if those limits are "closely drawn" to match a "sufficiently important governmental interest." *Buckley, supra*, 424 U.S. at 25; *Nixon v. Shrink Missouri Gov't PAC*, 528 U.S. 377, 387-388 (2000). However, BCRA imposes several restrictions on solicitation and spending that are neither closely drawn nor justified by a sufficiently important governmental interest. Moreover, BCRA goes well beyond mere contribution limitations and imposes direct restrictions on speech and associational activities of the political parties and their officers. In fact, the court below found that these provisions were almost

entirely unconstitutional, although it erred in applying less than strict scrutiny in analyzing them.

Fundamentally, BCRA prohibits the state and local parties from spending money lawfully raised under state law on state election activities such as voter registration or get-out-the-vote activities, even if directed at state or local candidates. Although it allows *limited* state-regulated funds to be used in *some* circumstances, the conditions imposed on the use of such money are extremely onerous and pose separate and independent restrictions on association: the state-regulated money cannot have been transferred to the party from another unit of the party and cannot have been jointly raised with another unit of the party. It must have been raised using only federally regulated money. The restrictions on transfers *of any size* and on joint fundraising directly interfere with the parties' autonomy. *See California Democratic Party v. Jones, supra*, 530 U.S. at 582. All of these restrictions now exist for state-regulated money raised by state and local political parties for use in state and local elections. As the state parties demonstrated below, these restrictions have a direct and devastating effect on the ability of the parties to function effectively in support of their state and local candidates. The Court properly found that the restrictions imposed upon the parties were not sufficiently related to any interest in preventing corruption to be constitutionally permissible, although the court's decision to leave the "public communications" provision intact forces the parties to continue to live with many of the associational restrictions still in place, at least as to those activities. This portion of the court's decision was error and should be reversed.

Also prohibited outright are "donations" to, or solicitations for, tax exempt organizations under IRS Code section 501(c) if they engage in "federal election activity," including nonpartisan voter registration or get-out-the-vote activities. As the California Appellants demonstrated, ballot measure committees are normally 501(c) organizations. They engage in get-out-the-vote activities. The effect of BCRA is therefore to prohibit the political parties from making any direct contributions to, or soliciting on behalf of, ballot measures. This absolute restriction on the parties' ability to become involved in important electoral issues in the state flies in the face of this Court's holding in cases such as *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978) and *Citizens Against Rent Control/Coalition For Fair Housing v. Berkeley*, 454 U.S. 290, 299 (1981).

Additionally, the parties are prohibited from contributing to, or soliciting for, state political committees registered under IRS Code § 527. Any organization that is supporting state or local candidates that is not a party committee is required to file under section 527. The local "Young Democrats Club" or "Lincoln Club" is typically a 527 committee. Their main activities are usually voter registration or get-out-the-vote activities – often for state or local candidates. The effect of this restriction is to prohibit political parties from providing direct financial support to these clubs which are often the "grass-roots" component of the party structure. The court correctly invalidated these restrictions and California appellants do not seek review on this issue.

In addition to the above restrictions, BCRA significantly limits the associational activities of the parties in additional ways. By making it a federal crime for federal candidates and officeholders (or their agents), or the

national parties (or their officers or agents) to "spend," "solicit," or "direct" non-federal money, BCRA essentially makes it illegal for these persons to engage in traditional campaign activity with their state or local counterparts. The Democrats' "Coordinated Campaign" and the Republicans' "Victory Plan" are efforts to bring all the various levels of the party together to plan and strategize, assess and allocate resources and set priorities for their campaign activities up and down the ticket. Critical state or local races can be an important focus of these campaign activities. If discussions take place about the raising, spending or directing of state-regulated resources, any federal candidate (or her representative) and any national party representative who is in the room is putting himself or herself at risk of prosecution. Since many state or local party officers are also national party officers, this prohibits these important party members from direct participation in decision-making. The chilling effect of such a possibility on the officers themselves is obvious and the existence of such restrictions forces the parties to significantly restructure or forego their traditional associational activities. These restrictions cannot withstand the "closest scrutiny" that must be given to such limitations on associational activity. *See NAACP v. Alabama*, 357 U.S. 449, 460-61 (1958); *see also Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214 (1989).

Finally, the very vagueness and/or overbreadth of many of BCRA's terms render certain provisions unconstitutional. The "public communications" restriction upheld by the court illustrates the point. The court concluded that Congress could properly regulate one category of "federal election activity" – any "public communication that refers to a clearly identified candidate for Federal office . . . and

that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) . . . " As a "federal election activity," all such public communications must be paid with 100% federal money.

A "public communication" includes "a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public . . . " Because the definition includes mail and other written communications media, it is substantially broader in scope than the "back-up" definition of "electioneering communications" in Title II which is structured similarly to include communications that "support," "promote," "attack" or "oppose" a clearly identified federal candidate. Although the court apparently believed that the terms "promote" or "attack" were sufficiently precise, it is evident that these terms are, in fact, extremely subjective. In fact, an argument could be made that *any* mention of a candidate either serves to promote or attack that candidate, depending on the light in which he or she is cast. And the fact that it extends to many communications not included in the Title II definition makes it even more problematic for the parties who routinely send out party mail that refers to federal candidates in contexts that may be prohibited by this language, e.g., fundraising solicitations for the party itself, endorsements of state candidates or ballot measures, and even voter registration materials.

This is precisely the kind of vague language rejected in *Buckley*, *supra*, 424 U.S. at 44 & n.52, 80. The Court erred in concluding that Congress could constitutionally

restrict any "public communication" by a political party that falls within the broad definition provided by BCRA.

III. The Provisions of BCRA Violate Equal Protection

BCRA imposes restrictions on the speech and associational activities of the political parties that are not similarly imposed on other participants in the political process. Distinctions drawn in these areas must be given the most exacting scrutiny. *See Police Dep't of Chicago v. Mosely*, 408 U.S. 92 (1972). As the record well documents, the inevitable result of many of BCRA's restrictions is that non-party organizations will begin performing many of the functions traditionally performed by parties without being subject to the substantial restrictions imposed on the parties themselves. To the extent that these organizations typically have a narrower focus than the parties and considerably less transparency than the parties, BCRA's goals are likely to be frustrated rather than achieved by the restrictions imposed.

CONCLUSION

For the foregoing reasons, the Court should note probable jurisdiction.

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*	:	
Plaintiffs,	:	**Civil Action No.: 02-CV-0582 (CKK, KLH, RJL)**
v.	:	
FEDERAL ELECTION COMMISSION, *et al.*	:	
Defendants.	:	

CALIFORNIA DEMOCRATIC PARTY, *et al*,	:	
Plaintiffs,	:	**Civil Action No. 02-CV00875 (CKK, KLH, RJL)**
v.	:	
FEDERAL ELECTION COMMISSION, *et al.*	:	**CONSOLIDATED ACTIONS**
Defendants.	:	

PLAINTIFFS' NOTICE OF APPEAL TO SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Plaintiffs California Democratic Party, Art Torres, Yolo County Democratic Central Committee, California Republican Party, Shawn Steel, Timothy J. Morgan, Barbara Alby, Santa Cruz County Republican Central Committee, and Douglas R. Boyd, Sr., in *California Democratic Party v. FEC*, No. 02-875 (CKK, KLH, RJL) (D.C.), appeal to the Supreme Court of the United States from any and all adverse rulings incorporated in,

antecedent to, or ancillary to the final judgment of the three-judge district court entered in this action on May 2, 2003.

This appeal is taken pursuant to section 403(a)(3) of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, 114.

Dated: May 12, 2003

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APPENDIX B

OPINIONS OF THE DISTRICT COURT

Due to the length of the opinions below, appellants are not including the District Court's opinions in the appendix to their jurisdictional statement. In accordance with the Court's order dated May 15, 2003, appellants will separately be submitting a joint appendix containing the orders of the District Court.

APPENDIX C

UNITED STATES CONSTITUTION
ARTICLE I, SECTION 4

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing [sic] Senators.

APPENDIX D

UNITED STATES CONSTITUTION AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

APPENDIX E

UNITED STATES CONSTITUTION AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX F

UNITED STATES CONSTITUTION AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

APPENDIX G

BIPARTISAN CAMPAIGN REFORM ACT OF 2002
PUB. L. NO. 107-155, 166 STAT. 81

[March 27, 2002]

An Act To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. – This Act may be cited as the "Bipartisan Campaign Reform Act of 2002".

(b) TABLE OF CONTENTS. – The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I – REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limit for State committees of political parties.

Sec. 103. Reporting requirements.

TITLE II – NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A – Electioneering Communications

Sec. 201. Disclosure of electioneering communications.

Sec. 202. Coordinated communications as contributions.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Sec. 204. Rules relating to certain targeted electioneering communications.

Subtitle B – Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure.

Sec. 212. Reporting requirements for certain independent expenditures.

Sec. 213. Independent versus coordinated expenditures by party.

Sec. 214. Coordination with candidates or political parties.

TITLE III – MISCELLANEOUS

Sec. 301. Use of contributed amounts for certain purposes.

Sec. 302. Prohibition of fundraising on Federal property.

Sec. 303. Strengthening foreign money ban.

Sec. 304. Modification of individual contribution limits in response to expenditures from personal funds.

Sec. 305. Limitation on availability of lowest unit charge for Federal candidates attacking opposition.

Sec. 306. Software for filing reports and prompt disclosure of contributions.

Sec. 307. Modification of contribution limits.

Sec. 308. Donations to Presidential inaugural committee.

Sec. 309. Prohibition on fraudulent solicitation of funds.

Sec. 310. Study and report on clean money clean elections laws.

Sec. 311. Clarity standards for identification of sponsors of election-related advertising.

Sec. 312. Increase in penalties.

Sec. 313. Statute of limitations.

Sec. 314. Sentencing guidelines.

Sec. 315. Increase in penalties imposed for violations of conduit contribution ban.

Sec. 316. Restriction on increased contribution limits by taking into account candidate's available funds.

Sec. 317. Clarification of right of nationals of the United States to make political contributions.

Sec. 318. Prohibition of contributions by minors.

Sec. 319. Modification of individual contribution limits for House candidates in response to expenditures from personal funds.

TITLE IV – SEVERABILITY; EFFECTIVE DATE

Sec. 401. Severability

Sec. 402. Effective dates and regulations.

Sec. 403. Judicial review.

TITLE V – ADDITIONAL DISCLOSURE PROVISIONS

Sec. 501. Internet access to records.

Sec. 502. Maintenance of website of election reports.

Sec. 503. Additional disclosure reports.

Sec. 504. Public access to broadcasting records.

TITLE I – REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL. – Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC.323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES. –

"(1) IN GENERAL. – A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. – The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES. –

"(1) IN GENERAL. – Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. –

"A) IN GENERAL. – Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts –

"(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements

of this Act (other than amounts described in subparagraph (B)(iii)); and

"(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

"(B) CONDITIONS. – Subparagraph (A) shall only apply if –

"(i) the activity does not refer to a clearly identified candidate for Federal office;

"(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

"(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

"(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from –

"(I) any other State, local, or district committee of any State party,

"(II) the national committee of a political party (including a national congressional campaign committee of a political party),

"(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

"(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

"(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY. – Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts –

"(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

"(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

"(c) FUNDRAISING COSTS. – An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS. – A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to –

"(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

"(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

"(e) FEDERAL CANDIDATES. –

"(1) IN GENERAL. – A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not –

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including

funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds –

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

"(2) STATE LAW. – Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

"(3) FUNDRAISING EVENTS. – Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

"(4) PERMITTING CERTAIN SOLICITATIONS. –

"(A) GENERAL SOLICITATIONS. – Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

"(B) CERTAIN SPECIFIC SOLICITATIONS. – In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if –

"(i) the solicitation is made only to individuals; and

"(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

"(f) STATE CANDIDATES. –

"(1) IN GENERAL. – A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTION FOR CERTAIN COMMUNICATIONS. – Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both."

(b) DEFINITIONS. – Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) FEDERAL ELECTION ACTIVITY. –

"(A) IN GENERAL. – The term 'Federal election activity' means –

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

"(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

"(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

"(B) EXCLUDED ACTIVITY. – The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for –

"(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention; and

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

"(21) GENERIC CAMPAIGN ACTIVITY. – The term 'generic campaign activity' means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

"(22) PUBLIC COMMUNICATION. – The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or

telephone bank to the general public, or any other form of general public political advertising.

"(23) MASS MAILING. – The term 'mass mailing' means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

"(24) TELEPHONE BANK. – The term 'telephone bank' means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period."

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended –

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C) –

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000."

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS. – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES. –

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES. – The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES. –

"(A) IN GENERAL. – In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

"(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY. – Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

"(3) ITEMIZATION. – If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner

as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS. – Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B)."

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION. –

(1) IN GENERAL. – Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended –

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW. – Section 403 of such Act (2 U.S.C. 453) is amended –

(A) by striking "The provisions of this Act" and inserting:

"(a) IN GENERAL. – Subject to subsection (b), the provisions of this Act"; and

(B) by adding at the end the following:

"(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES. – Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee."

TITLE II – NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A – Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS. –

"(1) STATEMENT REQUIRED. – Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT. – Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The principal place of business of the person making the disbursement, if not an individual.

"(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(3) ELECTIONEERING COMMUNICATION. – For purposes of this subsection –

"(A) IN GENERAL. – (i) The term 'electioneering communication' means any broadcast, cable, or satellite communication which –

"(I) refers to a clearly identified candidate for Federal office;

"(II) is made within –

"(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

"(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

"(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

"(B) EXCEPTIONS. – The term 'electioneering communication' does not include –

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

"(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

"(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

"(C) TARGETING TO RELEVANT ELECTORATE. – For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is 'targeted to the relevant electorate' if the communication can be received by 50,000 or more persons –

"(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

"(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

"(4) DISCLOSURE DATE. – For purposes of this subsection, the term 'disclosure date' means –

"(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE. – For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS. – Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

"(7) COORDINATION WITH INTERNAL REVENUE CODE. – Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986."

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION. – The Federal Communications Commission shall compile and maintain any information

the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended –

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) if –

"(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

"(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. – Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION. – Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS. –

"(1) APPLICABLE ELECTIONEERING COMMUNICATION. – For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

"(2) EXCEPTION. – Notwithstanding paragraph (1), the term 'applicable electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the

preceding sentence, the term 'provided directly by individuals' does not include funds the source of which is an entity described in subsection (a) of this section.

"(3) SPECIAL OPERATING RULES. –

"(A) DEFINITION UNDER PARAGRAPH (1). – An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

"(B) EXCEPTION UNDER PARAGRAPH (2). – A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

"(4) DEFINITIONS AND RULES. – For purposes of this subsection –

"(A) the term 'section 501(c)(4) organization' means –

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(5) COORDINATION WITH INTERNAL REVENUE CODE. – Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code."

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

"(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS. –

"(A) EXCEPTION DOES NOT APPLY. – Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

"(B) TARGETED COMMUNICATION. – For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(C) DEFINITION. – For purposes of this paragraph, a communication is 'targeted to the relevant electorate' if it meets the requirements described in section 304(f)(3)(C)."

Subtitle B – Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE. – The term 'independent expenditure' means an expenditure by a person –

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents."

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL. – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended –

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(g) TIME FOR REPORTING CERTAIN EXPENDITURES. –

"(1) EXPENDITURES AGGREGATING $1,000. –

"(A) INITIAL REPORT. – A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

"(B) ADDITIONAL REPORTS. – After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000. –

"(A) INITIAL REPORT. – A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

"(B) ADDITIONAL REPORTS. – After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS. – A report under this subsection –

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose."

(b) TIME OF FILING OF CERTAIN STATEMENTS. –

(1) IN GENERAL. – Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000. – Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient."

(2) CONFORMING AMENDMENTS. – (A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking "the second sentence of subsection (c)(2)" and inserting "subsection (g)(1)".

(B) Section 304(d)(1) of such Act (2 U.S.C. 434(d)(1)) is amended by inserting "or (g)" after "subsection (c)".

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended –

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY. –

"(A) IN GENERAL. – On or after the date on which a political party nominates a candidate, no committee of the political party may make –

"(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

"(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under this subsection with respect to the candidate during the election cycle.

"(B) APPLICATION. – For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(C) TRANSFERS. – A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate."

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL. – Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended –

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

"(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and".

(b) REPEAL OF CURRENT REGULATIONS. – The regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION. – The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject

determined by the Commission, the regulations shall address –

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316. – Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III – MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC.313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES. – A contribution accepted by a candidate, and any other donation received by an

individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual –

"(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers, without limitation, to a national, State, or local committee of a political party.

"(b) PROHIBITED USE. –

"(1) IN GENERAL. – A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION. – For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including –

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility."

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended –

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. –

"(1) IN GENERAL. – It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY. – A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.'; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended –

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. – It shall be unlawful for –

"(1) a foreign national, directly or indirectly, to make –

"(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

"(B) a contribution or donation to a committee of a political party; or

"(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

"(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national."

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS. – Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended –

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS. –

"(1) INCREASE. –

"(A) IN GENERAL. – Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT. –

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA. – In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of –

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION. – In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT. – Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over –

"(i) 2 times the threshold amount, but not over 4 times that amount –

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount –

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount –

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT. – The opposition personal funds amount is an amount equal to the excess (if any) of –

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. –

"(A) IN GENERAL. – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS. –

"(A) IN GENERAL. – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS. – Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election."

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. – Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended –

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS. –

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. – In this subparagraph, the term 'expenditure from personal funds' means –

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT. – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the

candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with –

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION. – Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with –

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION. – After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed [sic] $10,000 with –

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS. – A notification under clause (iii) or (iv) shall include –

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or [sic] obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(*i*)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT. – For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309."

(c) DEFINITIONS. – Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE. – For purposes of sections 315(*i*) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the

preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS. – The term 'personal funds' means an amount that is derived from –

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had –

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including –

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property."

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL. – Section 315(b) of the Communications Act of 1934 (47 U.S. C. 315(b)) is amended –

(1) by striking "(b) The charges" and inserting the following:

"(b) CHARGES. –

"(1) IN GENERAL. – The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) CONTENT OF BROADCASTS. –

"(A) IN GENERAL. – In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the

same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

"(B) LIMITATION ON CHARGES. – If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

"(C) TELEVISION BROADCASTS. – A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds –

"(i) a clearly identifiable photographic or similar image of the candidate; and

"(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

"(D) RADIO BROADCASTS. – A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

"(E) CERTIFICATION. – Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

"(F) DEFINITIONS. – For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)."

(b) CONFORMING AMENDMENT. – Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting "subject to paragraph (2)," before "during the forty-five days".

(c) EFFECTIVE DATE. – The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

"(12) SOFTWARE FOR FILING OF REPORTS. –

"(A) IN GENERAL. – The Commission shall –

"(i) promulgate standards to be used by vendors to develop software that –

"(I) permits candidates to easily record information concerning receipts and disbursements required to be

reported under this Act at the time of the receipt or disbursement;

"(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

"(III) allows the Commission to post the information on the Internet immediately upon receipt; and

"(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

"(B) ADDITIONAL INFORMATION. – To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

"(C) REQUIRED USE. – Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

"(D) REQUIRED POSTING. – The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph."

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS. – Section 315(a)(1) of the

Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended –

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS. – Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than –

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties."

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT. – Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS. – Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended –

(1) in paragraph (1) –

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002 –

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means –

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE. – The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL. – Chapter 5 of title 36, United States Code, is amended by –

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

"§ 510. Disclosure of and prohibition on certain donations

"(a) IN GENERAL. – A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

"(b) DISCLOSURE. –

"(1) IN GENERAL. – Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

"(2) CONTENTS OF REPORT. – A report filed under paragraph (1) shall contain –

"(A) the amount of the donation;

"(B) the date the donation is received; and

"(C) the name and address of the person making the donation.

"(c) LIMITATION. – The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)))."

(b) REPORTS MADE AVAILABLE BY FEC. – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following:

"(h) REPORTS FROM INAUGURAL COMMITTEES. – The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission."

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended –

(1) by inserting "(a) IN GENERAL. – " before "No person"; and

(2) by adding at the end the following:

"(b) FRAUDULENT SOLICITATION OF FUNDS. – No person shall –

"(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any

candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED. – In this section, the term "clean money clean elections" means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY. –

(1) IN GENERAL. – The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED. –

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES. – The Comptroller General shall determine –

(i) the number of candidates who have chosen to run for public office with clean money clean elections including –

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS. – The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT. – Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended –

(1) in subsection (a) –

(A) in the matter preceding paragraph (1) –

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement";

(iii) by striking "direct"; and

(iv) by inserting "or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))" after "public political advertising"; and

(B) in paragraph (3), by inserting "and permanent street address, telephone number, or World Wide Web address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION. – Any printed communication described in subsection (a) shall –

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS. –

"(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS. –

"(A) BY RADIO. – Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) BY TELEVISION. – Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to

the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement –

"(i) shall be conveyed by –

"(I) an unobscured, full-screen view of the candidate making the statement, or

"(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

"(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(2) COMMUNICATIONS BY OTHERS. – Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: '___ is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds."

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL. – Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure –

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both."

(b) EFFECTIVE DATE. – The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL. – Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE. – The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

(a) IN GENERAL. – The United States Sentencing Commission shall –

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS. – The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves –

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. –

(1) EFFECTIVE DATE. – Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of –

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. – The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS. – Section 309(a) of the Federal Election Campaign Act of 1971 (2 U. S.C. 437g(a)) is amended –

(1) in paragraph (5)(B), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)".

(b) INCREASE IN CRIMINAL PENALTY. – Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be –

"(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

"(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of –

"(I) $50,000; or

"(II) 1,000 percent of the amount involved in the violation; or

"(iii) both imprisoned under clause (i) and fined under clause (ii)."

(c) EFFECTIVE DATE. – The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE FUNDS.

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

"(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. –

"(i) IN GENERAL. – For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. – For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of –

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held."

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS BY MINORS

"SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party."

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS. – Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 315 the following new section:

"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO

PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT. –

"(1) IN GENERAL. – Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000 –

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased

limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT. –

"(A) IN GENERAL. – The opposition personal funds amount is an amount equal to the excess (if any) of –

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. –

"(i) IN GENERAL. – For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. – For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of –

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal

funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. –

"(A) IN GENERAL. – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased

limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS. –

"(A) IN GENERAL. – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. –

"(1) IN GENERAL. –

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. – In this paragraph, the term 'expenditure from personal funds' means –

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT. – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION. – Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION. – After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS. – A notification under subparagraph (C) or (D) shall include –

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING. – Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with –

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT. – For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309."

(b) CONFORMING AMENDMENT. – Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A,".

TITLE IV – SEVERABILITY; EFFECTIVE DATE

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional,

the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE. –

(1) IN GENERAL. – Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS. – The amendments made by –

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW. – Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS. – Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with

respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES. –

(1) IN GENERAL. – Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES. –

(A) IN GENERAL. – Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS. –

(i) IN GENERAL. – Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of –

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS. – A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES. – A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS. –

(1) IN GENERAL. – Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act.

(2) SOFT MONEY OF POLITICAL PARTIES. – Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title.

SEC. 403. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS. – If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS. – In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of

Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS. – Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY. –

(1) INITIAL CLAIMS. – With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) SUBSEQUENT ACTIONS. – With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V - ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

"(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission."

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL. – The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT. – In this section, the term "election-related report" means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES. – Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available

through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES. – Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking "the following reports" and all that follows through the period and inserting "the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year."

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY. – Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: "Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B)."

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

"(e) POLITICAL RECORD. –

"(1) IN GENERAL. – A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that –

"(A) is made by or on behalf of a legally qualified candidate for public office; or

"(B) communicates a message relating to any political matter of national importance, including –

"(i) a legally qualified candidate;

"(ii) any election to Federal office; or

"(iii) a national legislative issue of public importance.

"(2) CONTENTS OF RECORD. – A record maintained under paragraph (1) shall contain information regarding –

"(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

"(B) the rate charged for the broadcast time;

"(C) the date and time on which the communication is aired;

"(D) the class of time that is purchased;

"(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

"(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

"(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

"(3) TIME TO MAINTAIN FILE. – The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years."

Supreme Court, U.S.
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No. 02-1753

In the Supreme Court of the United States

CALIFORNIA DEMOCRATIC PARTY, ET AL., APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.

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QUESTION PRESENTED

In 2002, the President signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. BCRA is designed to address various abuses associated with the financing of federal election campaigns and thereby protect the integrity of the federal electoral process. The question presented by this appeal is as follows:

Whether the limitations on political parties imposed by Section 101 of BCRA are constitutional.

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RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.[1]

OPINIONS BELOW

The opinions of the district court are not yet reported.

JURISDICTION

The judgment of the district court was entered on May 2, 2003. Appellants' notice of appeal was filed on May 12, 2003. Appellants' jurisdictional statement was

[1] This response is filed on behalf of the Federal Election Commission (FEC) and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their capacities as Commissioners of the FEC; John Ashcroft, in his capacity as Attorney General of the United States; the United States Department of Justice; the Federal Communications Commission; and the United States of America. Those parties are appellants in *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676.

filed on May 30, 2003. The jurisdiction of this Court is invoked under the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 114.

STATEMENT

This case presents a facial challenge to the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. A three-judge panel of the District Court for the District of Columbia held that several provisions of BCRA violate the First Amendment to the Constitution, while sustaining other BCRA provisions against various constitutional challenges. The district court also held that the plaintiffs' challenges to certain BCRA provisions are not justiciable in this suit. Congress has vested this Court with direct appellate jurisdiction over the district court's decision. See BCRA § 403(a)(3), 116 Stat. 114.

Appellants challenge various rulings of the district court that rejected some of appellants' constitutional challenges on the merits. As of this date, 11 other jurisdictional statements arising out of the same district court judgment are pending before this Court. See *Mitch McConnell, United States Senator* v. *Federal Election Commission*, No. 02-1674; *National Rifle Association* v. *Federal Election Commission*, No. 02-1675; *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676 (see note 1, *supra*); *John McCain, United States Senator* v. *Mitch McConnell, United States Senator*, No. 02-1702; *Republican National Committee* v. *Federal Election Commission*, No. 02-1727; *National Right to Life Committee, Inc.* v. *Federal Election Commission*, No. 02-1733; *American Civil Liberties Union* v. *Federal Election Commission*, No. 02-1734; *Victoria Jackson*

Gray Adams v. *Federal Election Commission*, No. 02-1740; *Congressman Ron Paul* v. *Federal Election Commission*, No. 02-1747; *AFL-CIO* v. *Federal Election Commission*, No. 02-1755; *Chamber of Commerce* v. *Federal Election Commission*, No. 02-1756.

DISCUSSION

Under Section 403(a)(3) of BCRA, the final decision of the district court in this case is "reviewable only by appeal directly to the Supreme Court of the United States." 116 Stat. 114. Pursuant to Section 403(a)(4) of BCRA, this Court is directed "to advance on the docket and to expedite to the greatest possible extent the disposition of the * * * appeal." 116 Stat. 114. In addition to filing our own jurisdictional statement (see note 1, *supra*) to appeal the district court's rulings declaring certain provisions of BCRA to be invalid, appellees will defend on appeal those provisions of the statute that were sustained against appellants' constitutional challenges. Appellees agree, however, that appellants' jurisdictional statement identifies substantial questions of federal law and that this Court should note probable jurisdiction over the appeal.[2]

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[2] On May 23, 2003, appellees filed a motion for expedited briefing schedule applicable to all then-pending appeals (see pp. 2-3, *supra*) from the district court's judgment in this case. That briefing schedule should also be made applicable to the instant appeal.

CONCLUSION

The Court should note probable jurisdiction.

Respectfully submitted.

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JUNE 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

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Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

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Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

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No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

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